

### § 3.359

act or omission on the part of the Department of Veterans Affairs independently giving rise to such entitlement and such acts on the part of both proximately caused the additional disability.

(Authority: 38 U.S.C. 1151, 1720)

[26 FR 1590, Feb. 24, 1961, as amended at 36 FR 7659, Apr. 23, 1971; 39 FR 34531, Sept. 26, 1974; 43 FR 51015, Nov. 2, 1978; 60 FR 14223, Mar. 16, 1995; 61 FR 25788, May 23, 1996; 64 FR 1131, Jan. 8, 1999]

#### **§ 3.359 Determination of service connection for former members of the Armed Forces of Czechoslovakia or Poland.**

Rating boards will determine whether or not the condition for which treatment is claimed by former members of the Armed Forces of Czechoslovakia or Poland under 38 U.S.C. 109(c) is service connected. This determination will be made using the same criteria that applies to determinations of service connection based on service in the Armed Forces of the United States.

[43 FR 4424, Feb. 2, 1978]

#### **§ 3.360 Service-connected health-care eligibility of certain persons administratively discharged under other than honorable condition.**

(a) *General.* The health-care and related benefits authorized by chapter 17 of title 38 U.S.C. shall be provided to certain former service persons with administrative discharges under other than honorable conditions for any disability incurred or aggravated during active military, naval, or air service in line of duty.

(b) *Discharge categorization.* With certain exceptions such benefits shall be furnished for any disability incurred or aggravated during a period of service terminated by a discharge under other than honorable conditions. Specifically, they may not be furnished for any disability incurred or aggravated during a period of service terminated by a bad conduct discharge or when one of the bars listed in § 3.12(c) applies.

(c) *Eligibility criteria.* In making determinations of health-care eligibility the same criteria will be used as is now applicable to determinations of service

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incurrence and in line of duty when there is no character of discharge bar.

[43 FR 15154, Apr. 11, 1978]

#### **RATING CONSIDERATIONS RELATIVE TO SPECIFIC DISEASES**

#### **§ 3.370 Pulmonary tuberculosis shown by X-ray in active service.**

(a) *Active disease.* X-ray evidence alone may be adequate for grant of direct service connection for pulmonary tuberculosis. When under consideration, all available service department films and subsequent films will be secured and read by specialists at designated stations who should have a current examination report and X-ray. Resulting interpretations of service films will be accorded the same consideration for service-connection purposes as if clinically established, however, a compensable rating will not be assigned prior to establishment of an active condition by approved methods.

(b) *Inactive disease.* Where the veteran was examined at time of entrance into active service but X-ray was not made, or if made, is not available and there was no notation or other evidence of active or inactive reinfection type pulmonary tuberculosis existing prior to such entrance, it will be assumed that the condition occurred during service and direct service connection will be in order for inactive pulmonary tuberculosis shown by X-ray evidence during service in the manner prescribed in paragraph (a) of this section, unless lesions are first shown so soon after entry on active service as to compel the conclusion, on the basis of sound medical principles, that they existed prior to entry on active service.

(c) *Primary lesions.* Healed primary type tuberculosis shown at the time of entrance into active service will not be taken as evidence to rebut direct or presumptive service connection for active reinfection type pulmonary tuberculosis.

[26 FR 1591, Feb. 24, 1961, as amended at 43 FR 45347, Oct. 2, 1978]